

## Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-01  
INR-10 NSAE-00 ICA-20 TRSE-00 XMB-04 OPIC-06  
SP-02 LAB-04 SIL-01 OMB-01 HA-05 /082 W  
-----057863 272209Z /21

R 271838Z JUN 78  
FM AMEMBASSY SANTIAGO  
TO SECSTATE WASHDC 9662  
INFO AMEMBASSY BUENOS AIRES  
AMEMBASSY LIMA  
USCINCSO

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EO 11652: NA  
TAGS: ELAB,ETRN, CI  
SUBJ: GOC ISSUES NEW LABOR CODE

1. SUMMARY: THE GOC ISSUED JUNE 15 THE FIRST PART OF A NEW LABOR CODE DL 2200 WHICH WILL REGULATE INDIVIDUAL CONTRACTS AND JOB HEALTH AND SAFETY. THE NEW LAW RE-ESTABLISHES THE PRINCIPLE OF MUTUAL CONSENT IN TERMINATING LABOR CONTRACTS. THE LAW PERMITS A BELOW MINIMUM YOUTH WAGE DURING APPRENTICESHIPS FOR AS LONG AS TWO YEARS. DURING FIRST TWO YEARS A WORKER MAY NOT HOLD UNION OFFICE OR BE ELECTED WORKERS REPRESENTATIVE IN NON-UNION PLANTS. THE LAW PROVIDES FOR IMMEDIATE PAYMENT OF ALL BENEFITS ADJUSTED FOR INFLATION DUE TO A WORKER WHEN FIRED WITHOUT REQUIRING A PRIOR JUDICIAL ORDER. BUSINESS ARE STILL REQUIRED TO PUBLISH WORK RULES AND DISPLAY THEM IN A PROMINENT PLACE. OVERALL, THE NEW LAW GIVES MORE AUTHORITY TO EMPLOYERS TO MANAGE THEIR LABOR FORCE WHILE PROVIDING MORE INFORMATION TO WORKERS CONCERNING THEIR SOMEWHAT REDUCED RIGHTS. END SUMMARY.

2. ORIENTATION OF THE LAW: THE NEW LABOR CODE MAKES  
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A CLEAR STATEMENT OF PRINCIPLE IN DECLARING THAT WORK HAS A SOCIAL FUNCTION AND IS FOR EACH WORKER BOTH A RIGHT AND A DUTY. THE LAW GIVES EACH PERSON THE RIGHT TO FREELY SELECT AND CONTRACT HIS LABOR AND FORBIDS DISCRIMINATION BY EMPLOYERS BASED ON RACE, SEX, RELIGION, NATIONAL ORIGIN OR SOCIAL STATUS. MOST IMPORTANTLY THE LAW UNIFIES THE CONCEPT OF WHITE AND BLUE COLLAR

WORKERS WHICH WILL PERMIT EQUAL SOCIAL BENEFITS TO ALL CHILEAN WRKERS. HOWEVER, IMPLEMENTATION OF THIS CHANGE IS LEFT TO FUTURE LEGISLATION.

3. INDIVIDUAL CONTRACTS: THE MOST IMPORTANT SECTION OF THE LAW DEALS WITH INDIVIDUAL CONTRACTS. TITLE ONE REMOVES THE REQUIREMENT THAT A WORKER'S AGE, SEX OR MARITAL STATUS BE INCLUDED IN THE CONTRACT. THE SAME TITLE REQUIRES COMPLETE AND FULL INDEMNIFICATION DUE AN EMPLOYEE BE PAID AT THE TERMINATION OF A CONTRACT AND WITH FULL ADJUSTMENT FOR INFLATION. IT FURTHER STATES THAT THE CONTRACT MAY NOT BE CHANGED EXCEPT BY MUTUAL CONSENT. HOWEVER, EITHER THE EMPLOYER OR THE EMPLOYEE MAY TERMINATE A CONTRACT WITH THE SOLE REQUIREMENT THAT 30 DAYS WRITTEN NOTICE BE GIVEN. AND EMPLOYER MAY PAY THE EMPLOYEE FOR THIRTY DAYS LABOR IN LIEU OF WRITTEN NOTICE. AN EMPLOYER MAY ALSO UNILATERALLY MODIFY THE JOB REQUIREMENTS OR THE PLACE OF ASSIGNMENT PORTIONS OF THE CONTRACT AS LONG AS SIMILAR WORK IS REQUIRED BY THE CHANGE. THE NEW CODE MAINTAINS AND EXPANDS THE REASONS FOR TERMINATION OF A CONTRACT FOR CAUSE. IN SUCH CASES, THE EMPLOYEE IS NOT ENTITLED TO INDEMNIFICATION EXCEPT BY COURT ORDER. THE LAW NO LONGER CONTAINS PROVISIONS FOR REINSTATEMENT, PROVIDING ONLY THAT A WORKER MAY FILE A CLAIM IN COURT TO BE PAID ANY WAGES, SALARY BENEFITS DUE.

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4. INDEMNIFICATION: A WORKER WHO HAS LESS THAN A YEAR OF SERVICE MAY BE DISCHARGED WITH THIRTY DAYS NOTICE. HE IS NOT ENTITLED TO ANY OTHER INDEMNIFICATION. IF A WORKER HAS MORE THAN A YEAR OF SERVICE, HE MAY BE DISCHARGED WITH A PAYMENT OF ONE MONTH'S SALARY FOR EVERY YEAR OF SERVICE RENDERED INCLUDING PRIOR GOVERNMENT AND MILITARY SERVICE. ALL INDEMNIFICATIONS NOT PAID IMMEDIATELY MUST BE ADJUSTED FOR INFLATION PLUS 5 PERCENT INTEREST.

4. APPRENTICESHIPS: THE NEW LAW PERMITS AN EMPLOYER TO HIRE UNDER STRICT CONDITIONS APPRENTICES UNDER 21 YEAR OLD AT SIXTY PERCENT OF THE MINIMUM WAGE. AN APPRENTICE PROGRAM MUST BE REGISTERED WITH THE NATIONAL SERVICE OF

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TRAINING AND EMPLOYMENT AND THE TOTAL NUMBER OF AP-  
PRENTICES AMAY NOT EXCEED TEN PERCENT OF THE EMPLOYER'S  
WORK FORCE. WAGE AND WORKING CONDITIONS OF APRENTICES  
ARE NOT SUBJECT TO COLLECTIVE BARGAINING AND MAY NOT BE  
INCLUDED IN A COLLECTIVE BARGAINING CONTRACT.

6. OTHER PROVISIONS: THE NEW CODE LIMITS THE AMOUNT OF  
TIME A WOMAN MAY TAKE OFF TO HAVE A BABY TO SIX WEEKS  
BEFORE DELIVERY AND AND 12 WEEKS AFTER GIVING BIRTH. A WOMAN  
MAY NOT BE FIRED WHILE PREGNANT EXCEPT IF EITHER HER CON-  
TRACT OR HER JOB WOULD HAVE NORMALLY TERMINATED, OR SHE IS  
FIRED FOR CAUSE. CHILD CARE CENTERS MUST BE ESTABLISHED  
BY EACH COMPANY OF MORE THAN 20 PERSONS AND THE LABOR IN-  
SPECTOR MAY ORDER A COMPANY WITH LESS THAN 20 PERSONS TO  
PROVIDE A CHILD CARE CENTER. THE LAW FIXES THE LEGAL WORKS  
WEEK AT A MAXIMUM OF 48 HOURS AND ESTABLISHES SPECIAL CONDITIONS  
FOR EXCEEDING THIS PERIOD. A WORK WEEK OF 33 HOURS IS ESTABLISHED  
FOR SOCIAL WORKERS, AND FOR COMPUTER TECHNICIANS, PROGRAMMERS  
AND DATA PROCESSORS. A WORK WEEK OF 42 HOURS IS ESTABLISHED  
FOR RADIO AND TELEPHONE OPERATORS. THE LAW ALSO PROVIDES  
THAT WORK WEEKS MAY BE EXTENDED FOUR HOURS IF THE PACE  
OF WORK IS VERY SLOW AND THEREFORE NOT UNDULY TIRING IN THE  
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OPINION OF A LABOR INSPECTOR AND THE WORKERS MUST BE AVAILABLE  
FOR OVERTIME TO SERVE THE PUBLIC.

8. MINORS OVER 14 YEARS OLD MAY BE HIRED WITH THE CONSENT  
OF A PARENT OR LEGAL GUARDIAN BUT MAY NOT WORK IN  
INDUSTRIAL ESTABLISHMENTS AT NIGHT OR IN UNDERGROUND  
MINES. CHILDREN 14 YEARS OLD MAY ALSO WORK IS THEY

COMPLETED AT LEAST EIGHT YEARS OF SCHOOLING.  
SIXTEEN YEAR OLDS MAY UNDER CERTAIN CONDITIONS WORK  
AT NIGHT. CHILDREN UNDER 14 NO LONGER CAN LEGALLY WORK.

9. THE LAW REQUIRES THAT 85 PERCENT OF ALL EMPLOYEES  
OF A SINGLE EMPLOYER MUST BE CHILEAN NATIONALS OR HAVE  
LIVED IN CHILE MORE THAN FIVE YEARS. VISITING PERFORMERS  
OF HIGHLY SKILLED CONTRACTORS ARE RELIEVED OF THIS RE-  
QUIREMENT. INDUSTRIES WHICH PERMIT WORKER PARTICIPATION  
IN PROFIT SHARING MUST RAISE THE WORKERS' SHARE FROM 20  
PERCENT TO 30 PERCENT.

10. COMMENT: OVERALL THE NEW LAW MAINTAINS MOST OF THE  
BENEFITS ESTABLISHED IN THE LABOR CODES SINCE 1931. HOW-  
EVER, THE CHANGES THAT HAVE BEEN MADE PERMIT GREATER  
EMPLOYER AUTHORITY OVER THE WORK LIFE OF HIS EMPLOYEES AND  
REDUCE THE AVERAGE COST OF CONTRACTING NEW EMPLOYEES.  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW, HEALTH, SAFETY, LABOR FORCE, CONTRACTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 27 jun 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 jan 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Office:** ACTION ARA  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Page Count:** 4  
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**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
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**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** GOC ISSUES NEW LABOR CODE  
**TAGS:** ELAB, ETRN, CI  
**To:** STATE  
**Type:** TE  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014